



L. Spruell
2-14-94

PATENT #5

Election

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: James J. Keller
Serial No.: 08/020,675
Filed: February 22, 1993
Examiner: Stephen Funk
Group: 3307
For: "Ink Receptive Dampening System for
Lithographic Printing Press"

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

RECEIVED
FEB-7 94
GROUP 330

Dear Sir:

PRELIMINARY ELECTION WITH TRAVERSE

This is in response to the restriction requirement mailed September 17, 1993, in which Applicant was required to elect between claims 1-5 and 7-13 drawn to a dampening apparatus and method of making, classified by the Examiner in Class 101, subclass 148 and to claim 6 drawn to an oscillating roller, classified by the Examiner in Class 101, subclass 348.

Applicant preliminarily elects claims 1-5 and 7-13 with traverse and respectfully requests reconsideration and withdrawal of the restriction requirement.

Remarks

Applicant respectfully asserts that the determination of distinctiveness of inventions under M.P.E.P. §806.05(c) as promulgated under 35 U.S.C. §121 is permissive and not mandatory.

The Examiner has noted that the asserted combination and subcombination are related and in the same class, albeit different subclasses. It is respectfully submitted that all of the claims are drawn to substantially the same invention or sufficiently closely related inventions for consideration and inclusion in the same application. They are deemed not to be truly independent inventions as contemplated under 35 U.S.C. §121. The permissiveness of a determination under M.P.E.P. §806.05(c) is set